

**UNITED STATES DISTRICT COURT**

## DISTRICT OF NEVADA

UNITED STATES OF AMERICA,

Plaintiff,

VS.

KEITH L. MARIS et al.,

Defendants.

2:10-cv-01337-RCJ-NJK

## ORDER

In August 2010, the United States sued Defendants Keith L. Maris, Donna L. Maris, Interstate Bank, SSB (“Interstate”), University Medical Center (“UMC”), and Allstate Financial Systems, Inc. (“Allstate”) in this Court to obtain a judgment as to outstanding income, employment, and unemployment tax assessments against the Marises totaling nearly \$600,000 and to foreclose related tax liens, and to adjudicate lien priorities as against the other Defendants. UMC answered. Interstate answered, pled a counterclaim for declaratory relief as to lien priorities, and pled a similar crossclaim against Allstate. The United States answered Interstate’s counterclaim. In February 2011, the Court, *inter alia*, denied four motions to dismiss and two motions for summary judgment, rejecting the Marises’ arguments that the Court had no jurisdiction over the subject matter, that no statute made them liable for the taxes at issue, that the statutes of limitations had run, and that the United States had not complied with a relevant tax foreclosure provision of the Internal Revenue Code. The Clerk entered default against Allstate upon the United States’ motion. In February 2012, the Court granted the United States’ motion for default judgment against Allstate and granted in part the United States’ motion for summary

1 judgment against the Marises as to both the amounts owed and the liens arising therefrom, ruling  
2 that the United States had satisfied its initial burden on summary judgment and that the Marises  
3 had only responded with already rejected arguments concerning the statutes of limitations and the  
4 statutory tax foreclosure provisions. The Court, however, refused to approve foreclosure of the  
5 Marises' principal residence under the statutes because the United States had not shown there  
6 was no reasonable alternative method of collection. The Clerk entered judgment, accordingly,  
7 and the Marises appealed. The Marises asked the Court to stay or set aside its previous order  
8 pending appeal, and in May 2012, the Court denied the motion after the Marises failed to appear  
9 for oral argument. The Court of Appeals dismissed the appeal in November 2012 because the  
10 appealed orders were not final. In June 2013, the Court denied the United States' motion to  
11 amend the February 2012 order to permit foreclosure upon the Marises' primary residence.

12 In July and November 2013, respectively, the Marises filed the present Motions to  
13 Dismiss (ECF Nos. 151, 181). The Court denies the motions for several reasons. First, as the  
14 United States notes in response, the present motions are grossly untimely, i.e., by twenty-one and  
15 twenty-five months, respectively. Second, the Court has already entered judgment as to most of  
16 the claims, such that Rule 12(b)(6) is not an appropriate rule to invoke even if the motion were  
17 timely under the Scheduling Order. Third, the Court already denied the Marises' Rule 59(e)  
18 motion twenty months ago when they failed to appear for oral argument, and the Marises identify  
19 no new evidence that was previously unavailable.

20 Next, the Court denies as moot the Marises' request for an extension of time to file a  
21 proposed pre-trial order, as the Court has issued the Pre-trial Order.

22 Finally, the Court grants leave for Attorney Virginia Cronan Lowe to appear in this case,  
23 as she has attested as to her professional licensing and qualifications and that she has reviewed  
24 and intends to comply with the local ethical rules and the ethical rules of the State Bar of Nevada.

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**CONCLUSION**

IT IS HEREBY ORDERED that the Motions to Dismiss (ECF Nos. 151, 181) are DENIED.

IT IS FURTHER ORDERED that the Motion to Extend Time (ECF No. 149) is DENIED as moot.

IT IS FURTHER ORDERED that the Motion to Expedite the Motion for Leave to Appear (ECF No. 190) is GRANTED and the Motion for Leave to Appear (ECF No. 154) is GRANTED.

IT IS SO ORDERED.

Dated this 12th day of February, 2014.



ROBERT C. JONES  
United States District Judge